Supreme Court of the United States

OCTOBER TERM, 1952

No. 193

FORD MOTOR COMPANY,

Petitioner,

v.

GEORGE HUFFMAN, Individually, and on Behalf of a Class, Etc., and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, CIO,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

WILLIAM T. GOSSETT
L. HOMER SURBECK
RICHARD W. HOGUE, JR.
MALCOLM L. DENISE
Counsel for Petitioner

TABLE OF CONTENTS

CITATIONS

CASES:

STATUTES:

MISCELLANEOUS:

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TO THE HONORABLE, THE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Your petitioner respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit entered March 3, 1952 (R. 29), reversing a judgment of the District Court of the United States for the Western District of Kentucky which had granted petitioner's motion for summary judgment and dismissed respondent Huffman's action (R. 26).

the seniority status upon the seniority of the employees in the industry rather than upon the hiring date with the particular employer.*

2. The decision of the Court of Appeals is in apparent conflict with the principles enunciated in applicable decisions of this Court.

The ruling that the subject of seniority rights for veterans not previously employed has "no relevance to terms and conditions of work or the normal and usual subjects of contracts between union and employer" is not in accordance with the principles enunciated in *Aeronautical Industrial District Lodge 727* v. *Campbell*, 337 U. S. 521 (1949). There the Court pointed out that determination of seniority was a "part of the process of collective bargaining". This was recognized by Congress in using the term "seniority", without definition, in § 8 of the Selective Training and Service Act. It is necessary therefore to "look to the conventional uses of the seniority system in the process of collective bargaining in order to determine the rights of seniority which the Selective Service Act guaranteed the veteran" (p. 526). The Court there held that veterans' rights under the Selective Training and Service Act were not violated by provisions in a union agreement which granted to shop stewards and union chairmen a preferred seniority status as compared with other employees having an earlier hiring date. The provision was sustained as "not all uncommon,"

*See 21 Lab. Rel. Ref. Man. 20 (1948). Doubt is cast also upon provisions benefitting veterans not protected by the Selective Training and Service Act, such as those who were temporarily employed prior to military service. See 19 Lab. Rel. Ref. Man. 29 (1947). It has been estimated that veterans not protected by that Act amount to 80% of those released from military service. 15 Lab. Rel. Ref. Man. 2535 (1946). All references to Lab. Rel. Ref. Man. in this petition refer to the Manual of the Labor Relations Reporter.

and as being one which "surely ought not to be deemed arbitrary or discriminatory" (p. 528). It stated that "while there is not complete agreement on the advantage of seniority for union chairmen, it is certainly within the area of collective bargaining" (footnote 5). The decision was premised upon the fact that the provisions express "honest desires for the protection of the interests of all members of the Union and is not a skillful device of hostility to veterans"* (p. 529).

In *Steele* v. *Louisville & Nashville Railroad Co.*, 323 U. S. 192, at 203 (1944), the Court pointed out that the union was not barred from making contracts "which may have unfavorable effects on some of the members of the craft represented" which are "based on differences relevant to the authorized purposes of the contract in conditions to which they are to be applied." Thus "differences in seniority, the type of work to be performed, the competence and skill with which it is performed, are within the scope of the bargaining representation of a craft, all of whose members are not identical in their interest or merit * * *." This means that differences "in seniority", as well as differences in the type of work performed, may be made a basis for classification in the course of collective bargaining.

If the Court of Appeals had looked to the conventional use of the seniority system in collective bargaining, the propriety of the union's concern over the seniority status to be given veterans first employed upon their return to private employment would have been apparent. The propriety of such concern has been recognized by govern-

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Gauweiler v. *Elastic Stop Nut Corporation of America*, 162 F. 2d 448 (3rd Cir. 1947), relied upon by the Court of Appeals (R. 36) involved the precise issue decided by this Court in the *Aeronautical Lodge* case.

OPINIONS BELOW

The majority opinion of the Court of Appeals and the dissenting opinion of Judge McAllister (R. 30-38) are reported in 195 F. 2d 170. The District Court rendered no opinion, but set forth in its judgment the reasons for its decision (R. 26).

JURISDICTION

The judgment of the Court of Appeals was entered on March 3, 1952 (R. 29) and its opinion was filed on the same date (R. 30). On March 21, 1952, within the twenty-day period thereafter, as provided by Rule 28 of the Court of Appeals, petitioner filed a timely petition for rehearing, which was denied on April 15, 1952 (R. 39, 69). Jurisdiction to issue the writ requested is found in the provisions of 28 U. S. C. Section 1254 (1).

QUESTION PRESENTED

Whether a provision in a contract between an employer and a union, as collective bargaining agent for its members pursuant to the National Labor Relations Act, as amended, is invalid because it grants seniority credit for the period of his military service to any employee who is a veteran of World War II but was not hired by the employer until after his return from the military service of the United States.

STATUTES INVOLVED

Section 7 of the National Labor Relations Act, as amended by the Labor Management Relations Act (29

U. S. C. Section 157), upon which the decision of the Court of Appeals was based, reads as follows:

> "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection * * *."

Section 8 of the Selective Training and Service Act of 1940, as amended (50 U. S. C. App. Section 308), effective September 16, 1940, provides in substance that any person who leaves the employ of a private employer in order to perform military service, and who makes application for reemployment within a specified period after he is relieved from such service, shall be restored to his former position or one of like seniority, status and pay. It further provides:

> "Any person who is restored to a position * * * shall be considered as having been on furlough or leave of absence during his period of training and service in the land or naval forces, shall be so restored without loss of seniority * * *."

STATEMENT

Respondent Huffman, a veteran of World War II who previously had been employed by petitioner, returned to petitioner's employment at its Louisville plant in July, 1946, after completing his military service (R. 6-7). He was immediately credited with the seniority he would have had if he had never left the petitioner's employment (R. 7). He is a member of International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, CIO (hereinafter referred to as UAW-CIO) (R. 3).

On February 21, 1951, respondent Huffman, individually and on behalf of approximately 275 other persons employed by petitioner at its Louisville plant, commenced this action against UAW-CIO and petitioner in which he sought a declaratory judgment of the invalidity of the provisions of the collective bargaining agreements between UAW-CIO and petitioner relating to seniority rights of veterans who had not been employed at the time of entry into military service.

The collective bargaining agreements were three in number. The first of these agreements, entered into on July 30, 1946, between petitioner and UAW-CIO as statutory bargaining representative of petitioner's employees (including respondent Huffman), contained the following provisions (R. 14, 15; R. 12):

> "(c) Any veteran of World War II who was not employed by any person or company at the time of his entry into the service of the land or naval forces or the Merchant Marine and who is a citizen of the United States and served with the allies and who has been honorably discharged from such training and service and who is hired by the company after he is relieved from training and service in the land or naval forces or after completion of service in the Merchant Marine shall, upon having been employed for six (6) months and not before, receive seniority credit for the period of such service subsequent to June 21, 1941 * * *."
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> * * *
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> "(d) It is further understood and agreed that, regardless of any of the foregoing, all veterans in the employee (sic) of the company at the time the Contract is thus amended shall receive seniority credit for their period of service, subsequent to June 21, 1941 in the land or naval forces or Merchant

Marine of the United States or its allies, upon completion of their probationary period."

Identical provisions were embodied in the second agreement, dated August 21, 1947, negotiated with petitioner by UAW-CIO, as bargaining representative of petitioner's employees (R. 17-18; R. 12). The third agreement with petitioner, dated September 28, 1949, preserved to all veterans then employed by petitioner the seniority rights provided in the 1946 and 1947 agreements (R. 21; R. 12-13). Both the 1947 and 1949 agreements provided that they were to become effective upon ratification by the union membership and presumptively they were so ratified.

The complaint alleges that respondent Huffman was employed by petitioner on September 23, 1943, was inducted into the military service of the United States on November 18, 1944, was discharged therefrom on July 1, 1946 and, within thirty days thereafter, was re-employed (R. 6-7). It is further alleged that, by reason of the above-mentioned contract provisions, the positions on the seniority roster of the plaintiff, and of other employees at the Louisville works on whose behalf this suit was brought, have been changed to positions lower than those to which their hiring dates would otherwise have entitled them (R. 5). Plaintiff and the class whom he represents are alleged to have been laid off or furloughed at times and for periods when, except for such provisions, they would not have been laid off or furloughed (R. 7).*

*Note, in this connection, that the complaint does not limit the class represented by plaintiff to veterans employed by petitioner prior to their military service. The description of the class is broad enough to cover non-veterans, as well as veterans whose seniority standing is altered by the above-mentioned provisions under attack (R. 5).

The complaint charges that (1) the provisions in question were not within the contracting authority of the union, and (2) the provisions, as applied to the plaintiff individually, unlawfully impaired seniority rights preserved to him by the Selective Training and Service Act (R. 7-8).

On motions by all parties for summary judgment (R. 10, 22, 25) the District Court dismissed the complaint. The judgment stated that the Court was of the opinion that "the collective bargaining agreement expresses an honest desire for the protection of the interests of all members of the union and is not a device of hostility to veterans" and that the Court "finds that said collective bargaining agreement sets up a seniority system which the Court deems not to be arbitrary, discriminatory or in any respect unlawful" (R. 26).

The Court of Appeals reversed. The majority opinion (by Allen, C. J., concurred in by Hicks, Ch. J., R. 30-38) rejected Huffman's contention that the provision "violates rights of veterans previously employed by the Ford Motor Company, which were secured under the Selective Training and Service Act of 1940" (R. 32-3). But it sustained his contention that the provision was invalid, as discriminatory, because "veterans with longer periods of military service but shorter periods of employment with Ford are favored above Huffman and his class" and "veterans not employed at the time they entered military service" were given "seniority credits for their period of armed service after June 21, 1941" (R. 32). The Court held that length of military service "has no relevance to terms and conditions of work or the normal and usual subjects of contracts between union and employer" (R. 37). For this reason, the Court held that the provisions were not authorized under the National Labor Relations Act which

requires that the bargainers in entering into labor contracts "must make their agreements with a view to the rights of the entire group bound by them, and not enter into agreements which discriminate against one part for the benefit of another" (R. 36).

In effect, the Court has ruled that provisions concerning "seniority in layoffs and furloughs in favor of veterans later employed" (R. 32) may not be related to length of military service for the reason that such provisions, as a matter of law, are deemed not to have been made for the protection of the interests of all members of the union but to discriminate against one group of employees for the benefit of another.

Judge McAllister dissented on the grounds "that the collective bargaining agreement expressed an honest desire for the protection of the interests of all members of the union; that it was not a device of hostility to veterans; and that the seniority system therein provided was not arbitrary, discriminatory, or unlawful" (R. 38).

SPECIFICATION OF ERRORS TO BE URGED

The Court of Appeals erred:

1. In holding that the provisions of the agreement between UAW-CIO and petitioner were invalid because they

(a) Had no relevance to terms and conditions of work or the normal and usual subject of contracts between union and employer;

(b) Dealt with a subject with respect to which the union had no authority to negotiate;

(c) Were discriminatory despite the absence of any malice or hostility;

(d) Were made without regard for the protection of all members of the union or the union as a whole;

(e) Were based upon the period of military service of veterans not previously employed;

2. In reversing the summary judgment granted on petitioner's motion;

3. In failing (upon reversal) to remand the case for a trial on the issue of validity.

REASONS FOR GRANTING THE WRIT

1. The question involved is one of general importance in the field of collective bargaining under the National Labor Relations Act which should be settled by this Court.

The agreements containing the provisions held invalid govern the relations between petitioner and approximately 90,000 union employees. Like provisions are contained in about 300 different collective bargaining contracts between UAW-CIO and other employers, as well as in many other collective bargaining contracts entered into by other unions. The employers which are parties to such contracts include many well-known companies: Chrysler Corporation, Hudson Motor Car Company, Kaiser-Frazer Corporation, Bendix Aviation Corporation, Electric Auto-Lite Company, Minneapolis-Moline Power Implement Company, Houdaille-Hershey Corporation, Bohn Aluminum and Brass Corp., Bell Aircraft Corp., North American Aviation, Inc., American Thread Co., Cluett, Peabody & Co., Inc., Forstmann Woolen Co., Nashua Manufacturing Co., Sargent & Co.,

Emerson Electric Mfg. Co., Landers, Frary & Clark, Allis-Chalmers Manufacturing Co., American Locomotive Co., Fall River Textile Manufacturers Ass'n and New Bedford Cotton Manufacturers Ass'n. Unions which are parties to such contracts include United Textile Workers (AFL), Textile Workers Union (CIO), Federal Labor Union (AFL), Furniture Workers (CIO), Food, Tobacco and Agricultural Workers (CIO), Office and Professional Workers (CIO), United Electrical Workers (CIO), and Steelworkers (CIO). Contracts of this type cover the day-to-day relations between such companies and unions and many thousands of employees.

The possible implications of the decision are staggering. If the decision stands, the claims for damages against unions and employers by reason of their compliance with such provisions during the period prior to the declaration of invalidity might well run into hundreds of millions of dollars.*

The decision of the Court of Appeals for the Sixth Circuit has nationwide implications, but has no binding effect upon other courts in other circuits. As a result, both unions and employers are placed in a serious dilemma. While some of the contracts affect employees located exclusively within the Sixth Circuit, other contracts affect employees located

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*Petitioner and UAW-CIO are already met in this case with an application filed in the district court by respondent Huffman and other employees with claims asserting liabilities aggregating approximately $150,000. The Louisville Plant (at which these applicants work) is one of petitioner's smallest plants. Petitioner has some 70,000 union employees who work within the Sixth Circuit. It is estimated upon the basis of the liabilities so asserted that total claims against UAW-CIO and petitioner might approximate $20,000,000. The claims for damages in this connection arise in consequence of the possible frequency and extent of lay-offs, illustrated by the repercussions of the steel strike.

exclusively outside of the Sixth Circuit, and some, as in the case of petitioner's contract, affect many employees who are exclusively within the Sixth Circuit as well as many employees who are located exclusively outside of the Circuit. Only this Court, on certiorari proceedings, can settle the question on a nationwide basis.

If this Court should, however, deny certiorari here, and thus refuse to settle the question at this time, the petitioner, UAW-CIO, other companies and unions, and thousands of other employees would be placed in an impossible position. On the one hand, they might choose to accept the decision of the Sixth Circuit Court of Appeals as the law of the land and, accordingly, eliminate this contractual provision throughout the country, reshuffle their current seniority lists in all circuits, and lay off the new group of employees everywhere. Or, they might choose to regard the decision of the Sixth Circuit Court of Appeals as erroneous, and, accordingly, cancel this contractual provision only within the Sixth Circuit, reshuffle their lists and lay off new groups of employees only within that Circuit. Even this reshuffling would be at the risk of future decisions in other circuits with which this Court might agree and thus establish the law of the land to be contrary to the decision of the Sixth Circuit.* In that event, the new group of employees laid off in the Sixth Circuit by reason of this decision would undoubtedly assert claims against the employers and the unions. In any event, so long as this Court does not undertake to review the question at issue, potential claims against companies and unions will grow no matter what course the

*One district court, in the Fourth Circuit, has already sustained the contract provisions involved in this case, but no appeal has been taken from its decision. See p. 19, *infra*.

employers and the unions may feel obliged to follow pending authoritative decision on this question by the Supreme Court of the United States; and, in the meantime, the seniority status of a very large group of employees is in doubt. They have no way to resolve that doubt except by litigation.

Until this Court authoritatively settles the question, it is possible that many companies and unions, in an effort to minimize the risk of many claims, may endeavor to reach an agreement for the elimination of such provisions from their current contracts outside of the Sixth Circuit. But, in the case of such collective bargaining on this important issue, disagreement—particularly where one party views the Sixth Circuit decision as erroneous and likely to be reversed while the other party does not—might very well arise which could result in strikes and protracted periods of labor unrest. The situation clearly calls for a decision by this Court at this time.

The opinion of the Court of Appeals has other broad implications. It casts serious question upon the validity of many other types of provisions commonly adopted in negotiated labor contracts. For example, differentiations affecting particular employees either favorably or unfavorably upon the basis of the comparative economic circumstances of the members of the union as a whole are jeopardized. Among such provisions are those providing for layoffs of married women without regard to their previous seniority rights;* those which provide seniority benefits favoring physically handicapped employees;** and those which base

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*See *Hartley v. Brotherhood of Railway and Steamship Clerks, Etc.*, 283 Mich. 201, 277 N. W. 885 (1938), and *Schlenk* v. *Lehigh Valley R. Co.*, 74 F. Supp. 569 (D. N. J. 1947), *infra*, p. 18.

**B. N. A. "Collective Bargaining Negotiations and Contracts", 20:551, at p. 557.

mental agencies with respect to the very type of provisions involved in this case.

In 1945 the War Labor Board* directed the inclusion of similar provisions in certain labor agreements. *Murray Company and United Steelworkers of America, Local 2097* (CIO), 16 Lab. Rel. Ref. Man. 1864 (NLRB); *I. H. Williams & Company and United Office and Professional Workers of America, Local 64* (CIO), 17 Lab. Rel. Ref. Man. 1763 (NLRB).

In 1946, the Retraining and Re-employment Administration of the Department of Labor, after consultation with representatives of labor, management and veterans' organizations,** in an effort to assist in the process of reintegration, to minimize the competitive disadvantage apparent in long-term absence from civilian employment and to help veterans obtain and hold suitable jobs, published a statement of principles for the guidance of Government, management and labor (R. 58-59). Among the principles enunciated, which were unreservedly endorsed by Secretary of Labor Schwellenbach, was the following:

> "(13) * * * *Newly hired* veterans who have served a probationary period and qualified for employment should be allowed seniority credit, at least for purposes of job retention, equal to time spent in the armed services plus time spent in recuperation

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*In *Fishgold* v. *Sullivan Drydock & Repair Corp.*, 328 U. S. 275, 290 (1946), this Court gave great weight to the decision of that Board in sustaining the application to a veteran of the seniority provisions of a union contract.

**Those consulted included representatives of the following organizations: American Federation of Labor, Congress of Industrial Organizations, Railway Labor Executives' Association, Business Advisory Council to the Secretary of Commerce, National Association of Manufacturers, American Legion, Disabled American Veterans and Veterans of Foreign Wars.

from service-connected injuries or disabilities either through hospitalization or vocational training." (Italics supplied.)

It was in the light of such considerations that the UAW-CIO properly concluded that the provisions involved in this case were in the interest of the union as a whole. It was able, in the course of collective bargaining, to arrive at an agreement with petitioner for their inclusion in the contract for the benefit of its employees.

The general relevance of the subject matter of such provisions to the establishment of a fair and practical seniority plan is obvious. But for such provisions a veteran would find himself seriously penalized upon returning to or entering private employment after his military service. A veteran who was employed prior to his military service is protected by § 8 of the Selective Training and Service Act. The loss of seniority which he would otherwise have suffered is restored to him upon the basis of the length of his military service. Congress has thus removed a discrimination which otherwise would have existed against him by reason of his military service and would have caused the dissatisfaction and friction which lead to strikes. Precisely the same considerations call for comparable provisions for the protection of the veteran who entered military service prior to any private employment. If he had been able to enter private employment before being drafted, the time spent in military service would have measured his seniority status under § 8 of the Act. In order to avoid discrimination against him by reason of his absence in military service, the union has undertaken by collective bargaining to place him as nearly as possible in the same position he would have been in if he had been

able to enter private employment. It has thus avoided dissatisfaction and friction which lead to strikes.

The manifest fairness of the provisions of the Selective Training and Service Act in remedying an inequity in terms and conditions of employment is not disputed. The provisions obtained by the union through the process of collective bargaining have followed the same pattern. The relevance of both provisions to the terms and conditions of work is not destroyed by the fact that the seniority status conferred is related to the length of military service.

In the *Steele* case, this Court recognized that Congress had clothed the bargaining representative "with powers comparable to those possessed by a legislative body both to create and restrict the rights of those it represents" (323 U. S. at p. 202). Accordingly, for the purpose at hand, the limitations upon the powers of the bargaining agency are analogized to those imposed by the Constitution upon a legislative body to give equal protection to the interests of those for whom it "legislates". Application of this principle here would sustain the contract provision negotiated by the union on the basis of the same considerations which sustain the appropriateness of the comparable measure adopted by Congress in § 8 of the Selective Training and Service Act. The Court of Appeals, however, characterized the contractual provisions as "discriminatory" because the contract "prefers men without experience over men with experience * * * no other valid reasons for preference existing" (R. 38). But lack of experience is not the basis of the classification. It is based upon the fact that military service prevented the veteran from working. If Congress considers that the length of military service should be credited towards seniority, even though the necessary result is to give seniority credit

for a period in which no added experience in private employment was acquired, it cannot be said that a collective bargaining agency, in reaching the same conclusion, must, as a matter of law, be deemed to have acted arbitrarily and not in the best interests of the members of the union as a whole. Surely, the contractual provisions cannot, as a matter of law, be held to be discriminatory by reason of the fact that they were created by collective bargaining rather than by legislation.

3. The decision is in apparent conflict with principles enunciated by other circuit courts of appeal and by state courts of last resort.

The principle applied in holding the provisions invalid on the ground of discrimination unduly limits the power of the union to bargain collectively for the best possible contract for its members as a whole where there are diversified or conflicting interests among its membership. The principle applied is in apparent conflict with the ruling of the Court of Appeals for the Seventh Circuit in *Foster* v. *General Motors Corp.*, 191 F. 2d 907 (1951), *cert. den.* 343 U. S. 906. There the union had negotiated provisions for vacation benefits during 1946 on the basis of gross earnings of the employees in 1945. As a result, the plaintiffs, who had been in military service during 1945, were not entitled to vacation pay in 1946. The validity of the contract was sustained notwithstanding the fact that the result appeared to be discriminatory against the plaintiffs. There had been no bad faith in the collective bargaining. The Court said (p. 911):

> "* * * After all, a union as an authorized bargaining agent no doubt is legitimately interested in obtaining

> the best possible contract for its members as a whole, and with numerous diversified interests among its members, especially, where its membership is large, there is nothing strange or unnatural if some segments of its membership are placed at disadvantage when compared with others. * * *"

See also *Llewellyn* v. *Fleming*, 154 F. 2d 211 (10th Cir. 1946), *cert. den.* 329 U. S. 715; *Fries* v. *Pennsylvania R. Co.*, 195 F. 2d 445 (7th Cir. 1952); *Hartley* v. *Brotherhood of Ry. and Steamship Clerks, Etc.*, 283 Mich. 201, 277 N. W. 885 (1938); and *Schlenk* v. *Lehigh Valley R. Co.*, 74 F. Supp. 569 (D. N. J. 1947).

Until the decision by the majority in this case, the Court of Appeals for the Sixth Circuit had recognized that the mere presence of discriminatory provisions does not invalidate an agreement arrived at by collective bargaining. In *Britt* v. *Trailmobile Co.*, 179 F. 2d 569 (1950), *cert. den.* 340 U. S. 820, the agreement defined the seniority rights of two classes of employees. One class had been employed by a company which merged with Trailmobile. The other had been employed by Trailmobile prior to the merger. For a time after the merger both groups were afforded seniority rights by the union agreement upon the basis of their employment by both companies. The Trailmobile employees, constituting a majority, organized a new union which negotiated a new contract with the company. That contract established seniority of those employed by Trailmobile prior to the merger upon the basis of their original date of employment by that company. The seniority of those formerly in the employ of the merging corporation was based upon their employment from the date of merger only. The result was an obvious preference by the union of old

Trailmobile employees as against the other employees. In an opinion by Simons, C. J. (who did not participate in the present case) the Court said (p. 573):

> "* * * Whatever we might think of the fairness of the differentiation, the discrimination was in pursuance of the bargaining process and not without some basis, forestalled a strike and was therefore not invalid. Aeronautical Industrial District Lodge 727 v. Campbell, supra."

In *Haynes* v. *United Chemical Workers, CIO*, 190 Tenn. 165, 228 S. W. 2d 101 (1950), provisions in a contract between the union and employer granted to veterans of World Wars I and II seniority credit equal to twenty-five per cent of the time spent in the armed services during such wars, despite the fact that they had not previously been employed by the company. Other employees sought an adjudication that such provisions were invalid as impairing the seniority rights of non-veterans as well as those of veterans who had been employed by the company before entering military service. The validity of the contract was upheld.

The validity of the contract provisions involved in this case were sustained in an unreported decision by the District Court for the Western District of North Carolina in *Price et al* v. *Ford Motor Company*, Civil Action No. 564 (1948), from which no appeal was taken.

Thus, of the five federal judges and five state judges who have passed upon the validity of provisions identical or susbtantially identical with those in the present case, three of the former and all of the latter have sustained the

provisions. This is striking evidence of the reasonableness of the view that the union has not exceeded the scope of its bargaining power in this case.

CONCLUSION

It is submitted that the question involved is one of general public importance, that the decision of the Court of Appeals is in apparent conflict with the principles enunciated in applicable decisions of this Court and with the principles enunciated by other circuit courts of appeal and by state courts of last resort, and that it is therefore one which should be settled by this Court.

WHEREFORE, your petitioner respectfully prays that a writ of certiorari be issued by This Honorable Court to review the judgment of the Court of Appeals for the Sixth Circuit, that the judgment of the Court of Appeals be reversed, and that this Court grant such other and further relief as may be proper.

Respectfully submitted,

WILLIAM T. GOSSETT,
RICHARD W. HOGUE, JR.,
Counsel for Petitioner.

L. HOMER SURBECK,
MALCOLM L. DENISE,
Of Counsel.

Dated: July 14, 1952